IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 6719 OF 2005.

Microline India P.Ltd. ... Petitioner.
V/s.
Smt.Mohini Sudam Javalkar ... Respondent.

WITH

WRIT PETITION NO. 6720 OF 2005.

Microline India P.Ltd. ... Petitioner
V/s
Smt.Kanta Vasant Late ... Respondent.

Shri Nitin M. Apte with Smt. Veena Rahirkar for the petitioner.

Shri P.M. Patel for the respondent.

CORAM : V.C.DAGA, J.

DATED : 27.4.2006.

P.C. :

. Heard learned Counsel for the petitioner.

2. This is a case wherein petitioner was served with notice of Reference. Petitioner entered appearance through Counsel. Written statement was filed and Reference was contested for some years, but thereafter nobody attended reference proceeding, with the result, relying upon evidence of First party, who did not go through the gamut of cross-examination, the First Labour Court, Pune, was pleased to allow reference by Award dated 28.2.2005 being Reference (ID)359/2000. Award, ultimately, came to be served on the petitioner on 31.5.2005. It was open for the petitioner to apply for setting

aside exparte award. Had it been applied for setting aside exparte award , the petitioner would have been got an opportunity to lead evidence and to bring on record the circumstances which prevented the petitioner from taking part in the reference proceeding.

3. Petitioner chose not to move such application but to file writ petition. The writ petition is belated. It was ready in the office of the Advocate on 28.7.2005. However, it was filed on 18.8.2005. Exparte Award is dated 28.2.2005. Period for setting aside exparte Award is 30 days from the date of service. Negligence on the part of the petitioner in not filing Award under Rule 26(2) of the Industrial Disputes (Bombay Rules) and to move this Court belatedly is writ large.

4. In the writ jurisdiction of this Court under Article 227 of the Constitution of India it is not possible for this Court to appreciate the disputed questions of fact or to record evidence and find out reasons as to why petitioner could not take part in the reference proceeding.

5. Leaving aside the above aspect, if one goes to consider the matter on merits, there is absolutely no material even to dislodge the findings on merits recorded by the Court below.

6. In the above view of the matter, no case is made out to interfere with the impugned order. Petitions are, therefore, dismissed in limine with no order as to costs.

(V.C.DAGA,J.)